



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
525 NE Oregon Street
PORTLAND, OREGON 97232-2737

Refer to:
2002-00767

August 27, 2002

Mr. Dan L. Tippy
Acting Field Manager
Central Oregon Resource Area
Bureau of Land Management
3050 N. E. 3rd Street
Prineville, OR 97754

RECEIVED
AUG 30 2002
CLM PRINEVILLE
DISTRICT

Re: Endangered Species Act Section 7 Informal Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for the Northeast Oregon Assembled Land Exchange (NOALE), Umatilla/John Day River Basin, Baker, Grant, Morrow, Umatilla, Union, and Wheeler Counties, Oregon.

Dear Mr. Tippy:

This correspondence is in response to your request for consultation under the Endangered Species Act (ESA). Additionally, this letter serves to meet the requirements for consultation under the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

ENDANGERED SPECIES ACT

The U.S. Department of Interior (USDI) Bureau of Land Management (BLM) Prineville District, proposes to exchange scattered parcels of land in the John Day River and Umatilla River basins with Pioneer Resources, JV Ranch, and many other landowners. The purpose of the proposed action is to: (1) Consolidate the BLM's holdings to improve the efficiency of their land and resource management; and (2) improve the management of habitat for native fish and wildlife by acquiring lands adjacent to existing BLM and National Forest lands.

On July 8, 2002, the National Marine Fisheries Service (NOAA Fisheries) received an incomplete biological assessment (BA) from the BLM and a written request for concurrence with a finding that the proposed action is "not likely to adversely affect" (NLAA) Middle Columbia River (MCR) steelhead (*Onchoryncus mykiss*). On July 10, 2002, NOAA Fisheries requested additional information and clarification of some elements of the BA. On July 22, 2002, the BLM provided a new BA. Phone and e-mail conversations to further clarify project components continued until August 6th, when NOAA Fisheries received an ammendment to the BA. NOAA Fisheries and the BLM agreed that the BA, as ammended, was adequate. This consultation is



undertaken pursuant to section 7(a)(2) of the Endangered Species Act (ESA) and its implementing regulations, 50 CFR Part 402.

The BLM proposes to dispose of several scattered parcels in northeast Oregon, and acquire parcels that are adjacent to other larger parcels of Federal land. The original proposal was for the disposal of approximately 92,000 acres and the acquisition of approximately 70,000 acres. The parcels subject to this consultation are those remaining that were not included in the Oregon Land Exchange Act of 2000, Federal legislation which directed the BLM to exchange a series of parcels in northeastern Oregon with non-Federal land managers. Of the 51,700 acres remaining for proposed disposal, 560 acres have been determined to be NLAA and 51,140 acres were determined to be no effect (NE). The disposal parcels range from two to 2,320 acres in size. The parcels designated for acquisition are between 80 and 20,000 acres. The BLM is proposing to acquire approximately 47,000 acres of land in the exchange. The BLM considers the disposal lands to be small scattered tracts, while the tracts for acquisition are larger and arranged in a more contiguous manner which will facilitate more efficient management of land and resource use. The intended uses on the disposal tracts will likely be grazing and timber harvest. The average length of the stream reaches within the disposal tracts is 0.2 miles.

Based on information provided by the BLM and developed during informal consultation, NOAA Fisheries concurs with the BLM's determination that the proposed project is NLAA for the following reasons: (1) The BLM will acquire 55.8 miles of perennial stream that are MCR steelhead habitat of which 39.7 miles are steelhead spawning habitat; (2) most stream segments on disposal lands are short reaches (0.2 miles or less in length) and total 4.8 miles; (3) the grazing management on the disposal parcels will not likely change; (4) the forested tracts proposed for disposal that are likely to be harvested do not contain anadromous salmonid habitat and are not on perennial streams; (5) more conservative management direction that supports ESA-listed fish species will occur on acquired lands than what occurs there while under private ownership; and (6) the consolidation of Federal lands will improve the conditions on, and allow for more effective management of, the Federal land holdings in the Umatilla and John Day River basins. Therefore, the proposed project has less than a negligible likelihood of causing incidental take to ESA-listed salmonids.

The BLM must reinitiate this consultation if: (1) New information reveals that effects of the action may affect listed species in a way not previously considered; (2) the action is modified in a way that causes an effect on listed species that was not previously considered; or (3) a new species is listed or critical habitat is designated that may be affected by the action (50 CFR 402.16).

MAGNUSON-STEVENSON ACT

Federal agencies are required under §305(b)(2) of the MSA and its implementing regulations (50 CFR 600 Subpart K), to consult with NOAA Fisheries regarding actions that are authorized,

funded, or undertaken by that agency that may adversely affect essential fish habitat (EFH). The MSA (§3) defines EFH as “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.” If an action would adversely affect EFH, NOAA Fisheries is required to provide the Federal action agency with EFH conservation recommendations (MSA §305(b)(4)(A)). This consultation is based, in part, on information provided by the Federal action agency and descriptions of EFH for Pacific salmon contained in Appendix A to Amendment 14 to the Pacific Coast Salmon Plan (August 1999) developed by the Pacific Fishery Management Council and approved by the Secretary of Commerce (September 27, 2000).

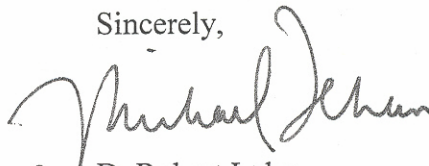
The proposed action and action area are described in section IV of the BA. The project area includes habitat which has been designated as EFH for various life stages of chinook salmon (*O. tshawytscha*).

Because the habitat requirements (*i.e.*, EFH) for the MSA-managed species in the project area are similar to that of the ESA-listed species, and because the conservation measures that the FSA included as part of the proposed action to address ESA concerns are also adequate to avoid, minimize, or otherwise offset potential adverse effects to designated EFH, conservation recommendations pursuant to MSA (§305(b)(4)(A)) are not necessary. Since NOAA Fisheries is not providing conservation recommendations at this time, no 30-day response from the FSA is required (MSA §305(b)(B)).

This concludes consultation under the MSA. If the proposed action is modified in a manner that may adversely affect EFH, or if new information becomes available that affects the basis for NOAA Fisheries’ EFH conservation recommendations, the FSA will need to reinitiate EFH consultation with NOAA Fisheries in accordance with NOAA Fisheries implementing regulations for EFH at 50 CFR 600.920(k).

Please direct questions regarding this letter to Mike Bianchi of my staff in the Oregon Habitat Branch at 541.975.1835 ext. 221.

Sincerely,


for D. Robert Lohn
Regional Administrator

cc: Brent Ralston, BLM
John Morris, BLM
Larry Bright, USFS
Jennifer O'Reilly, USFWS
Tim Unterwegner, ODFW